THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO : 3486 of 1996

30-08-2005

Between:

Pujari Narasimaiah, S/o. Pujari Hanumanthaiah,
R/o. Kothiralla Village H/o.Dudekonda,
Pathikonda Mandal, Kurnool Dt.

..... PETITIONER

AND

1 The District Collector, Kurnool.
Kurnool. And another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

–

WRIT PETITION NO : 3486 of 1996

O R D E R:

This petition is filed questioning the proposed acquisition of land in S.No.242/2 of Kothiralla village Hamlet of Dudekonda, Pathikonda Mandal, Kurnool District.

The case of the petitioner is that he and his father are the archakas of the land in survey NO.242/2 of Kothiralla village H/o Dudekonda, which belongs to Sri Anjaneya Swamy temple and that they are in possession therof in lieu of their salary and that the said land is proposed to be acquired for the purpose of providing house sites to weaker sections of the society after dispensing with the enquiry under Section 5A of the Land Acquisition Act (for short 'the Act') which is improper and so the proposed notification for acquisition may be set aside.

The contention of the learned Assistant Government Pleader is that petitioner who has no interest in the land proposed to be acquired has no locus standi to question the proposed acquisition.

Since the specific case of the petitioner is that he and his father have been rendering Archakatvam service in Sri Anjaneya Swamy Temple and are in enjoyment of the land

proposed to be acquired in lieu of their salary and the notification impugned shows that the land proposed to be acquired belongs to Sri Anjaneya Swamy Temple, the contention of the learned Assistant Government Pleader that petitioner has no locus standi to file the petition cannot be accepted.

The purpose of acquisition to provide house sites to weaker sections of Pathikonda village. Reasons for dispensation of enquiry under Section 5A of the Act are not mentioned. The Apex Court in Union of India Vs. Mukesh Hans () and Union of India Vs. Krishanlal Arneja () held that dispensation of enquiry under Section 5A of the Act cannot be made in a routine fashion and for such dispensation there should be imminent and urgent necessity, as such an enquiry is a valuable right to the owner/possessor of the land.

Since there is nothing on record to show that there was proper application of mind to show that there in fact is a real need to dispense with the enquiry under Section 5A of the Act, which is the only valuable right to the petitioner, who is claiming possession of the land proposed to be acquired, in view of the ratio in the above referred decisions of the apex Court the notification impugned is liable to be quashed.

Hence, the writ petition is allowed and the notification impugned is quashed. No costs.

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30-08-2005

Mjl/*